

UNITED STATES DISTRICT COURT

for the
Western District of Washington

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

Apple iPhone 8 with rose gold back plate and white face
Apple iPhone 6S Plus with grey back plate and white
face

Case No. MJ17-463

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, which is incorporated herein by reference

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, which is incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description


18 USC 922(g)(1)

Unlawful Possession of Firearms and Ammunition

The application is based on these facts:

See attached Affidavit of Special Agent Matthew P. Wear

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

ATF Special Agent Matthew P. Wear
Printed name and title

Sworn to before me pursuant to CrimRule 4.1.

Date: 11/06/2017


Judge's signature

City and state: Seattle, Washington

Brian A. Tsuchida, United States Magistrate Judge
Printed name and title

Attachment A

Premises to be Searched

This warrant authorizes the government to search the following premises for the items listed in Attachment B (Items to be Searched for and Seized):

Apple iPhone 8 with rose gold back plate and white face; and

Apple iPhone 6S Plus with grey back plate and white face

Attachment B

List of Items to be Searched for and Seized

This warrant authorizes the government to search for the following items:

Evidence and/or fruits of the commission of the crime of Unlawful Possession of Firearms, including but not limited to the following:

1. Cell Phones: Cellular telephones and other communications devices including Blackberries and other smartphones may be searched for the following items:
 - a. Assigned number and identifying telephone serial number (ESN, MIN, IMSI, or IMEI);
 - b. Stored list of recent received, sent, and missed calls;
 - c. Stored contact information;
 - d. Stored photographs of firearms or other weapons, firearms accessories, ammunition, evidence of suspected criminal activity, and/or the user of the phone or suspected co-conspirators, including any embedded GPS data associated with those photographs;
 - e. Stored text messages.

PROBABLE CAUSE REGARDING DEVICES TO BE SEARCHED

On October 20, 2017, a confidential informant (“CI”)¹ working for the ATF came into contact with Abdirashid Haret and other persons at a 7-11 store in SeaTac, Washington. Haret informed the CI that he had firearms he was looking to sell. Haret stated he had recently stolen the firearms from the residence of a military officer or a police officer. Haret showed the CI one of the firearms he was trying to sell (a .40 caliber pistol) and the CI took a photograph of the gun with his smartphone. Haret told the CI that the other stolen firearms were in the possession of other persons who were not with him at that time. Haret also showed the CI a video on Haret’s smartphone that depicted Haret possessing firearms. After parting ways with Haret, the CI electronically sent a copy of the photograph of the .40 caliber pistol to his ATF handlers.

ATF agents instructed the CI to reestablish contact with Haret and arrange to purchase the firearms. The CI communicated with Haret via a series of telephone calls and text messages, and Haret agreed to meet the CI in order to sell the firearms. They agreed to meet later that afternoon in the parking lot of the Lowe’s Home Improvement store at 24050 Pacific Highway S., in Kent, Washington. Haret also sent the CI a text message containing a photograph of another handgun he was going to sell; Haret referred to this firearm as a “tech” (a common street term for a Tech 9 style handgun). During their text message and telephone conversations, Haret and the CI negotiated the price of \$1,100 for the sale of the “tech” firearm and the .40 caliber pistol.

An ATF Special Agent working in an undercover capacity (hereinafter the “UC”) accompanied the CI to the Lowe’s parking lot. The UC and CI arrived at the Lowe’s in an undercover vehicle. At approximately 4:53 p.m., Haret arrived at the Lowe’s,

¹ The CI referenced herein is currently working for ATF in exchange for monetary compensation. The CI is not receiving any other benefits for his performance as a CI. The CI’s criminal history consists of convictions for the federal offense of Unlawful Transport of Firearms in 2008, and the Illinois State offense of Aggravated Battery/Great Bodily Harm in 1998. The CI has worked with ATF on prior investigations and has consistently proven reliable.

1 accompanied by Omar Abdullah. They arrived in a grey Dodge Charger, with Abdullah
2 driving and Haret sitting in the front passenger seat.

3 The UC and CI exited their vehicle, walked over to the Dodge Charger, and
4 entered the back seats of the Charger. The UC sat behind the driver (Abdullah) and the
5 CI sat behind the passenger (Haret). The UC was in possession of a recording device
6 and consensually recorded the interactions with the defendants.

7 Instead of selling the firearms to the UC and CI, both Abdullah and Haret
8 brandished firearms and demanded money from the UC and CI. According to the UC
9 and the CI, both Abdullah and Haret pointed firearms directly at them while they
10 demanded the money. The UC and CI complied and provided the defendants with all of
11 the cash they possessed. At that point, the UC and/or the CI stated they had additional
12 money in their vehicle, and the UC exited the Dodge Charger ostensibly to retrieve the
13 money. Shortly thereafter, the UC drew his firearm and discharged several rounds into
14 the Dodge Charger. Abdullah was hit by several bullets, received medical attention at
15 the scene, and was transported to Harborview Medical Center, where he remains at the
16 present time. Prior to his transportation from the scene, law enforcement personnel
17 removed Abdullah's pants and retained them as evidence. Officers recovered from one
18 of the pants pockets an Apple iPhone 8 with a rose gold back plate and a white face.

19 After the UC fired his weapon, Haret fled on foot from the Dodge Charger. ATF
20 special agents who were conducting surveillance of the transaction observed Haret
21 running and holding a handgun in one of his hands. The agents saw Haret throw the
22 firearm to the ground just prior to reaching Pacific Highway, which runs along the west
23 side of the Lowe's parking lot. Haret then attempted to run across Pacific Highway, but
24 he was hit by an uninvolved vehicle and sustained minor injuries. Haret was taken into
25 custody at that time and transported to the Valley Medical Center for treatment. He was
26 cleared by medical staff later that night and was booked into the King County Jail.

1 Law enforcement officers recovered the firearms that were possessed by both
2 Abdullah and Haret. Immediately after they observed Haret slough the firearm near
3 Pacific Highway (as described above), ATF agents located the firearm on the ground
4 and stood near it until it was recovered by police officers processing the crime scene.
5 The firearm was identified as a Smith & Wesson model M&P 40, .40 caliber semi-
6 automatic pistol, with serial number NAS1122.

7 The firearm that Abdullah possessed was ultimately recovered from the Dodge
8 Charger. The vehicle was impounded at the scene in anticipation of obtaining a search
9 warrant, which was thereafter issued by a King County Superior Court Judge. The
10 warrant was executed on October 22, 2017. One firearm was located in the vehicle,
11 lying on the front passenger side floorboard. The firearm was identified as a
12 Masterpiece Arms 9mm semi-automatic pistol, with serial number F2670. Although this
13 is not technically a "Tech 9" firearm, it has a similar shape and style to a Tech 9 firearm.

14 Also recovered from the crime scene was an Apple iPhone 6S Plus with a grey
15 back plate and a white face. This iPhone was recovered on the ground next to the open
16 front passenger door of the Dodge Charger – the seat in which Haret was sitting and fled
17 from. Besides this iPhone and the smartphone seized from Abdullah's pants pocket, no
18 other smartphones were recovered from the crime scene or the Dodge Charger.

19 I have reviewed court records from the King County Superior Court, and therefore
20 am aware that the defendants have been convicted of the following felony offenses:

21 ABDULLAH: *Robbery in the Second Degree*, under cause number 15-1-
22 00464-2, in King County Superior Court, on or about June 26, 2015.

23 HARET: *Assault in the Second Degree* and *Assault in the Third Degree*,
24 under cause number 15-8-01160-1, in King County Superior Court,
25 Juvenile Division, on or about January 27, 2016.

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1 ATF Special Agent David Roberts, an agent who is an expert at conducting
2 interstate nexus reviews, has determined that the firearms referenced above were both
3 manufactured outside of the State of Washington, and therefore had traveled in interstate
4 and/or foreign commerce.

5 **KNOWLEDGE BASED ON TRAINING AND EXPERIENCE**

6 Based on my training and experience in investigating numerous firearms
7 possession and trafficking offenses, I am aware that:

8 a. People involved in the possession and sale of firearms commonly use
9 digital devices, including mobile or cellular telephones, blackberries, and electronic
10 storage devices (hereinafter “communication devices”) as a means to communicate with
11 one another, their customers, and store pictures of such items. Users of these
12 communication devices will often store names, addresses, and/or numbers of co-
13 conspirators and customers in their devices’ directory and speed dialing functions. I am
14 also aware that most communications devices have an electronic “memory” that records
15 and stores information regarding the most recent calls to and from the phones, as well as
16 voice mail or text messages.

17 b. Individuals who possess and sell firearms will often use their
18 communication devices to store telephone or voice mail messages, email messages, text
19 messages, shortened and/or code names that are used to describe such items.

20 c. Individuals who possess and sell firearms commonly take, or cause to be
21 taken, photographs of themselves with firearms or simply the firearms themselves. These
22 individuals commonly maintain these photographs in their possession, including in their
23 communications devices.

24 Based on the facts of this investigation, I believe that the iPhone 8 recovered from
25 Abdullah’s pants pocket belonged to Adbullah, and the iPhone 6S Plus recovered on the
26 ground outside of the open passenger door belonged to Haret. I further submit that there
27 is probable cause to believe these smartphones were used in relation to Abdullah’s and
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1 Haret's possession of and purported sale of firearms. As set forth above, Haret used his
2 smartphone to communicate with the CI about the firearms transaction, he showed the CI
3 a video on his smartphone depicting himself in possession of firearms, and he sent the CI
4 text messages and photographs about the firearms transaction. Moreover, Haret told the
5 CI that the other firearms for sale (one of which was later identified as the "tech" pistol)
6 were in the possession of other persons who were not with him at that time. Haret later
7 obtained an electronic photograph of the "tech" pistol and sent it via text message to the
8 CI. Shortly thereafter, Abdullah arrived at the firearms transaction in possession of a
9 matching "tech" style handgun and his smartphone. Based on these circumstances, and
10 on my training and experience, I believe Haret and Abdullah communicated via their
11 phones to coordinate meeting together and setting up the firearms transaction.

12 Based on my training and experience, the data maintained in a cellular telephone
13 may include evidence of a crime or crimes. This includes the following:

14 a. The assigned number to the cellular telephone (known as the mobile
15 directory number or MDN), and the identifying telephone serial number (Electronic
16 Serial Number, or ESN), (Mobile Identification Number, or MIN), (International Mobile
17 Subscriber Identity, or IMSI), or (International Mobile Equipment Identity, or IMEI) are
18 important evidence because they reveal the service provider, allow us to obtain subscriber
19 information, and uniquely identify the telephone. This information can be used to obtain
20 toll records and to identify contacts by this telephone with other cellular telephones used
21 by other subjects.

22 b. The stored list of recent received calls and sent calls is important
23 evidence. It identifies telephones recently in contact with the telephone user. This is
24 valuable information because it will identify telephones used by other individuals who
25 are part of illegal firearms transactions, and it confirms the date and time of contacts.
26 This information also is helpful (and thus is evidence) because it leads to friends and
27 associates of the user who can identify the user, help locate the user, and provide
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1 information about the user. Identifying a defendant's law-abiding friends is often just as
2 useful as identifying his criminal associates.

3 c. Stored text messages are important evidence, similar to stored
4 numbers. Agents can identify both criminal associates, and friends of the user who likely
5 have helpful information about the user, his location, and his activities.

6 d. Photographs on a cellular telephone are evidence because they help
7 identify the user, either through his or her own picture, or through pictures of friends,
8 family, and associates that can identify the user. As noted above, it is also likely that
9 photographs of contraband firearms, firearms accessories, and/or ammunition are on the
10 subject phone.

11 e. Stored address records are important evidence because they show the
12 user's close associates and family members, and they contain names and nicknames
13 connected to phone numbers that can be used to identify suspects.

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CONCLUSION

Based upon the information set forth above, I respectfully submit that there is probable cause to believe the Apple iPhone 8 with a rose gold back plate and a white face (recovered from Abdullah's pants) and the Apple iPhone 6S Plus with a grey back plate and a white face (recovered outside of the Dodge Charger's front passenger door) contain evidence and fruits of the offense of Unlawful Possession of Firearms and Ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

This warrant application is to be presented electronically pursuant to the Western District of Washington Local Criminal Rule CrR 41(d)(3).


MATTHEW P. WEAR, Affiant
Special Agent, ATF

The above-named agent provided a sworn statement attesting to the truth of the contents of the foregoing affidavit on this 6th day of November, 2017.


THE HONORABLE BRIAN A. TSUCHIDA
United States Magistrate Judge